

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
BRYSON CITY DIVISION
2:10cv22**

**LINDA HOGUE and RALEIGH
GRANT, guardians *ad litem*, *ex. rel.*
Jacob Grant,**

Plaintiffs,

Vs.

ORDER

**TOWN OF BRYSON CITY; BRYSON
CITY POLICE DEPARTMENT;
RICK TABOR, both individually and in
his official capacity as Chief of the
Bryson City Police Department; and
LEON ALLEN, both individually and
in his capacity as Bryson City Police
Officer.**

Defendants.

THIS MATTER is before the court upon review of the Complaint for compliance with Rule 17, Federal Rules of Civil Procedure. While the caption of the Complaint indicates that this action is being brought by plaintiff Jacob Grant’s guardians ad litem,¹ there is nothing in the Complaint to indicate the residence, citizenship, or relationship of the purported guardians, or the authority by which they

¹ The court has taken the liberty of correcting “Guardian *Ad Litem*” to “guardians *ad litem*.”

were appointed. Further, while the Complaint states that “COMES NOW the Plaintiff, by and through the undersigned attorney . . . ,” Compl., at p. 1, the court believes that the preamble should reflect that the Complaint is “by and through the guardians *ad litem* of Jacob Grant as well as through counsel” that the action is brought.

The court’s concern is not based on a parsing of words or being a stickler for detail, but a concern for finality and avoidance of later collateral attack should Mr. Grant be restored to competency at a later date. Indeed, the court is most appreciative that people, such as Ms. Hogue and Mr. Grant, act as guardians *ad litem* and that attorneys prosecute challenging cases.

Thus, counsel for plaintiff will be granted leave to amend the Complaint accordingly and annex thereto a copy of the Order or other instrument appointing Linda Hogue and Raleigh Grant as Jacob Grant’s guardians *ad litem*.

ORDER

IT IS, THEREFORE, ORDERED that counsel for plaintiffs amend the Complaint as herein provided within 14 days.

Signed: December 8, 2010

Dennis L. Howell

Dennis L. Howell
United States Magistrate Judge

